

JUN 10 2011

Board of Vocational Nursing  
and Psychiatric Technicians

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**BEFORE THE  
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. VN-2009-2414

**MARILYN V. FORTE**  
**aka MARILYN V. DAVIS**  
1900 Ascot Parkway # 1011  
Vallejo, CA 94589  
**Vocational Nurse License No. VN 164659**

**A C C U S A T I O N**

Respondent.

Complainant alleges:

**PARTIES**

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about September 17, 1993, the Board of Vocational Nursing and Psychiatric Technicians issued Vocational Nurse License Number VN 164659 to Marilyn V. Forte, aka Marilyn V. Davis (Respondent). The Vocational Nurse License will expire on January 31, 2013, unless renewed.

**JURISDICTION**

3. This Accusation is brought before the Board of Vocational Nursing and Psychiatric Technicians (Board), Department of Consumer Affairs, under the authority of the following laws.

1 All section references are to the Business and Professions Code unless otherwise indicated.

2 STATUTORY PROVISIONS

3 4. Section 2875 of the Business and Professions Code (Code) provides, in pertinent part,  
4 that the Board may discipline the holder of a vocational nurse license for any reason provided in  
5 Article 3 (commencing with section 2875) of the Vocational Nursing Practice Act.

6 5. Section 118(b) of the Code provides, in pertinent part, that the expiration of a license  
7 shall not deprive the Board jurisdiction to proceed with a disciplinary action during the period  
8 within which the license may be renewed, restored, reissued or reinstated. Under section 2892.1  
9 of the Code, the Board may renew an expired license at any time within four years after the  
10 expiration.

11 6. Section 2878 of the Code states:

12 "The Board may suspend or revoke a license issued under this chapter [the Vocational  
13 Nursing Practice Act (Bus. & Prof. Code, 2840, et seq.)] for any of the following:

14 "(a) Unprofessional conduct. . .

15 "(d) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
16 violating of, or conspiring to violate any provision or term of this chapter.

17 . . .

18 "(f) Conviction of a crime substantially related to the qualifications, functions, and duties of  
19 a licensed vocational nurse, in which event the record of the conviction shall be conclusive  
20 evidence of the conviction.

21 . . .

22 "(h) Impersonating another practitioner, misrepresenting professional credentials or  
23 licensure status, or permitting another person to use his or her certificate or license.

24 . . .

25 "(j) The commission of any act involving dishonesty, when that action is related to the  
26 duties and functions of the licensee.

27 . . ."

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2 7. Section 2885 of the Code states:

3 "It is unlawful for any person or persons not licensed as provided in this chapter [the  
4 Vocational Nursing Practice Act] to impersonate in any manner or pretend to be a licensed  
5 vocational nurse, or to use the title 'Licensed Vocational Nurse,' the letters 'L.V.N.,' or any other  
6 name, word or symbol in connection with or following his name so as to lead another or others to  
7 believe that he is a licensed vocational nurse."

8 8. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

#### 12 FIRST CAUSE FOR DISCIPLINE

##### 13 (Unprofessional Conduct- Working Without a Valid License)

14 9. Respondent is subject to disciplinary action under section 2878(d) and code in  
15 conjunction with section 2885 of the Code in that Respondent pretended to be a licensed  
16 vocational nurse. Respondent worked as a licensed vocational nurse without a valid license. The  
17 circumstances are as follows:

18 a. On or about February 28, 2009, Respondent's license expired. Respondent's license  
19 was re-activated on or about November 18, 2010. Respondent did not have a valid vocational  
20 nurse license between February 28, 2009 and November 18, 2010.

21 b. Between February and May, 2009, Respondent was warned by the Board, in writing,  
22 on no less than three occasions that Respondent's license was no longer valid and that continued  
23 employment as a licensed vocational nurse was cause for disciplinary action.

24 b. Respondent worked full time as licensed vocational nurse at the Veteran's Home of  
25 California between February 28, 2009 and November 18, 2010. Respondent also worked  
26 weekends at Sonoma Healthcare Center as a licensed vocational nurse while her license was  
27 expired.

1 c. Respondent failed to inform either Veteran's Home of California or Sonoma  
2 Healthcare Center her license had expired.

3 SECOND CAUSE FOR DISCIPLINE

4 (Conviction)

5 10. Respondent is subject to disciplinary action under section 2787(f) of the code in that  
6 Respondent was convicted of a crime that is substantially related to the duties, function or  
7 qualification of a licensed vocational nurse. The circumstances are as follows:

8 11. On or about April 12, 2011, in Napa County Superior Court Case No. CR155451,  
9 Respondent was convicted of violation 2886, making false representation in connection with an  
10 application. The circumstances leading to Respondent's conviction are described in paragraph 9,  
11 above.

12 THIRD CAUSE FOR DISCIPLINE

13 (Misrepresenting License Status)

14 12. Respondent is subject to disciplinary action under section 2787(h) of the Code in that  
15 Respondent misrepresented her professional credentials or license status. The circumstances are  
16 described in paragraph 9, above.

17 FOURTH CAUSE FOR DISCIPLINE

18 (Dishonesty)

19 13. Respondent is subject to disciplinary action under section 2787(j) of the Code in that  
20 Respondent was involved in dishonesty that is related to the duties and functions. The  
21 circumstances are described in paragraph 9, above.

22 FIFTH CAUSE FOR DISCIPLINE

23 (Unprofessional Conduct)

24 14. Respondent is subject to disciplinary action under section 2878(a) in that Respondent  
25 was involved in unprofessional conduct. The circumstances are described in paragraph 9, above.

26 DISCIPLINE CONSIDERATIONS

27 15. To determine the degree of discipline, if any, to be imposed on Respondent,  
28 Complainant alleges that on or about March 28, 2008, in a prior action, the Board of Vocational

1 Nursing and Psychiatric Technicians issued Citation Number 08-0006-L and ordered Respondent  
2 to pay a fine of \$250.00. Respondent failed to submit proof that she fulfilled her continuing  
3 education requirements. Respondent failed to pay the citation until November 18, 2010.  
4 Respondent's license was not renewed and expired in 2009, in part, because of Respondent's  
5 failure to timely pay this citation. This Citation is now final and is incorporated by reference as if  
6 fully set forth.

7 16. To determine the degree of discipline, if any, to be imposed on Respondent,  
8 Complainant alleges that on or about April 18, 2001, in a prior action, the Board of Vocational  
9 Nursing and Psychiatric Technicians issued Citation Number 01-0030-L and ordered Respondent  
10 to pay a fine of \$500.00. Respondent was involved in unprofessional conduct in that she failed to  
11 protect a patient's health and safety and failed to adhere to professional standards. That Citation  
12 is now final and is incorporated by reference as if fully set forth.

13 PRAYER


14 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
15 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians  
16 issue a decision:

17 1. Revoking or suspending Vocational Nurse License Number VN 164659, issued to  
18 Marilyn V. Forte.

19 2. Ordering Marilyn V. Forte to pay the Board of Vocational Nursing and Psychiatric  
20 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to  
21 Business and Professions Code section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.  
23

24  
25 DATED: June 7, 2011

26   
TERESA BELLO-JONES, J.D., M.S.N., R.N.  
Executive Officer  
Board of Vocational Nursing and Psychiatric Technicians  
Department of Consumer Affairs  
State of California  
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*Complainant*